

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

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Application No.:	10/054,809	§	Examiner:	Doan, Duyen My
Filed:	January 22, 2002	§	Group/Art Unit:	2152
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Title: Advertisements For  
Peer-To-Peer Computing  
Resources

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**REPLY BRIEF**

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This brief is in reply to the Examiner's Answer dated January 16, 2007. Appellants respectfully request that this Reply Brief be entered pursuant to 37 C.F.R. § 41.41 and considered by the Board of Patent Appeals and Interferences.

## **REPLY TO EXAMINER'S ANSWER**

### **Section 101 Rejection:**

Claims 110 and 111 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. An after-final amendment was filed on June 8, 2006 to amend claims 110 and 111 as suggested by the Examiner to recite a **computer-readable storage medium** configured to store program instructions. The Examiner's Answer indicates that the amendment has been entered.

In the Examiner's Answer, the Examiner states that "On page 127 of the specification applicant has provided evidence that applicant intends **the medium** to include signals as such the claim is drawn to a form of energy." Page 127, lines 12-17 state (emphasis added):

Generally speaking, a carrier medium may include **storage media or memory media** such as magnetic or optical media, e.g., disk or CD-ROM, volatile or non-volatile media such as RAM (e.g. SDRAM, DDR SDRAM, RDRAM, SRAM, etc.), ROM, etc. **AS WELL AS** transmission media or signals such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as network and/or a wireless link.

Note that claims 110-111 have been amended to recite a **computer-readable storage medium**, and not a "medium" or a "carrier medium". **Storage media** are clearly described in the specification as encompassing tangible, physical articles or objects, ("magnetic or optical media, e.g., disk or CD-ROM, volatile or non-volatile media such as RAM, ROM, etc."), and thus storage media are statutory subject matter. **Storage media** are clearly differentiated in the specification from "**transmission media** or signals such as electrical, electromagnetic, or digital signals."

Thus, Applicants respectfully request removal of the § 101 rejection of claims 111-112.

**Art Rejections:**

**Claims 1, 9-13, 18, 50, 56, 57, 65-69, 74, 100, 102-105 and 109:**

Appellants have argued that the rejection of claim 1 is improper because the Examiner has not shown that Teodosiu qualifies as a prior art reference. More specifically, Teodosiu is a published U.S. patent application that was filed on Sep. 13, 2001, after Appellants' priority date of Jan. 22, 2001. Teodosiu does claim the benefit of two provisional applications both filed Nov. 22, 2000. However, the Nov. 22, 2000 filing date can only be used as Teodosiu's 35 U.S.C. § 103(a) prior art date for the subject matter that is common to both the published application and the provisional application.

The Examiner has not shown that every portion of Teodosiu relied upon by the Examiner to reject Appellants' claims is found in the same one of Teodosiu's provisional applications. It is the Examiner who has the burden of proof to establish a proper rejection. *In re Warner*, 154 USPQ 173, 177 (C.C.P.A. 1967), *cert. denied*, 389 U.S. 1057 (1968). A comparison between Teodosiu's published application and each provisional application clearly shows that the teachings relied on by the Examiner are largely missing from Teodosiu's provisional applications. For example, in the rejection of claims 1-5, 8-16 and 18-24, the Examiner relies on the following paragraphs and figures of Teodosiu: [0008], [0010], [0029], [0031], [0032], [0038-0040], [0044 - 0057], [0072 - 0077] and FIG. 3. None of these paragraphs are found in either of Teodosiu's provisional applications, and FIG. 3 of Teodosiu is drawn and labeled differently in provisional application 60/252,658. The Nov. 22, 2000 filing date can only be used as Teodosiu's 35 U.S.C. § 103(a) prior art date for the subject matter that is common to both the published application and a single one of the provisional applications. See, *In re Wertheim*, 209 USPQ 554 (CCPA 1981).

In the Response to Arguments section of the Examiner's Answer, the Examiner asserts "Even though the provisional application is shorter, [ ] it provided the base for the

published application.” This assertion is clearly not sufficient to overcome the Appellants’ above arguments. **The Examiner has the burden of proof to establish a proper rejection. As noted above, the Examiner has not shown that every portion of Teodosiu relied upon by the Examiner to reject Appellants’ claims is found in the same one of Teodosiu’s provisional applications.** Appellants have provided several examples of paragraphs and figures of the Teodosiu published application that are relied upon by the Examiner in the rejection that are **not found** in Teodosiu’s provisional applications. The Examiner has not demonstrated that the portions of Teodosiu relied upon by the Examiner to reject the claims **are** found in Teodosiu’s provisional applications. Simply asserting that “[the provisional applications] provided the base for the published application” clearly does not meet any burden of proof. Since the Examiner has not shown that the portions of Teodosiu relied upon by the Examiner to reject the claims **are** common to both Teodosiu’s published application and one of Teodosiu’s provisional applications, the rejection is improper.

In the Response to Arguments section of the Examiner’s Answer, the Examiner simply repeats the Examiner’s assertion from the previous Action that “Under U.S.C. 112, it does not mention[] that the provisional application and the utility application have to be the same length or exactly the same word by word with the utility application.” Again, Appellants have never argued that 35 U.S.C. § 112 requires that the provisional application and the utility application have to be the same length or the same word by word with the utility application. **However, the law does require that a filing date of a parent application be used as a 35 U.S.C. § 103(a) prior art date for a child application only for subject matter that is common to both applications.** The teachings from Teodosiu’s published application relied on by the Examiner are largely missing from Teodosiu’s provisional applications. The fact that only “common subject matter” can be used as prior art is both common sense and well-settled law. *See, In re Wertheim*, 209 USPQ 554 (CCPA 1981); M.P.E.P. § 2136.03(III).

**Appellants have further argued that the rejection of claim 1 is improper because Teodosiu’s published application is not entitled to the Nov. 22, 2000 date as**

**a section 103(a) prior art date unless at least one claim of Teodosiu's published application is supported (under 35 U.S.C. § 112) in the provisional application.** Under 35 U.S.C. 119(c)(1), a published utility application is not entitled to its provisional application's filing date as a prior art date unless at least one claim of the published utility application is supported (per 35 U.S.C. § 112) in the provisional application. Since both of Teodosiu's provisional applications are much shorter informal papers as compared to Teodosiu's utility application, it is not at all clear that either one of Teodosiu's provisional applications provide full 35 U.S.C. § 112 support for any of the claims of Teodosiu's published utility application. The rejection is improper unless the Examiner can show that Teodosiu's published application has the necessary claim support in the provisional application to be entitled to the provisional application's filing date as its § 103(a) prior art date. *See also* M.P.E.P. § 2136.03(III),(IV).

In the Response to Arguments section of the Examiner's Answer, the Examiner asserts "Claim 1 of the published utility application is clearly support by the provisional application (sec...pg 2-6)". The Examiner is simply repeating the Examiner's assertion from the previous Action that pages 2-6 of Teodosiu's provisional application no. 60/252,658 teach the limitations of claim 1 of Teodosiu's published application.

**As the Appellants argued in the Appeal Brief, a careful review of pages 2-6 of Teodosiu's provisional application no. 60/252,658 fails to reveal that this portion of Teodosiu's provisional application satisfies the written description and enablement requirements of 35 U.S.C. § 112 for claim 1 of Teodosiu's published application.** For example, pages 2-6 of Teodosiu's provisional application no. 60/252,658 do not describe the RNS server "receiving a peer resource request ... from a peer platform through a networking environment". Nor do pages 2-6 of Teodosiu's provisional application no. 60/252,658 describe "generating a peer resource response based on the peer resource request". Nor do pages 2-6 of Teodosiu's provisional application no. 60/252,658 describe "returning the peer resource response to the peer platform through the networking environment, said peer resource response to enable the peer platform to

access a peer resource corresponding to the peer resource request within the networking environment.”

**The Examiner has the burden to establish a proper rejection.** The Examiner’s assertion in the Response to Arguments section of the Examiner’s Answer that “Claim 1 of the published utility application is clearly support by the provisional application (see...pg 2-6)” is clearly not sufficient to counter the Appellant’s above arguments. Appellants have provided several examples of limitations from claim 1 of Teodosiu’s published application that are not supported in Teodosiu’s the provisional application. The Examiner has provided nothing in response to those examples. The Examiner has clearly not met the burden of proof to establish a proper rejection.

The Examiner has not shown that Teodosiu’s provisional application satisfies the written description and enablement requirements for any claim of Teodosiu’s published application. *See*, M.P.E.P. § 2136.03(IV). The Examiner has the burden of proof to produce the factual basis for the rejection. *In re Warner*, 154 USPQ 173, 177 (C.C.P.A. 1967), *cert. denied*, 389 U.S. 1057 (1968). Since the Examiner has not proven that both of the above requirements have been met for Teodosiu’s teachings to qualify as prior art, the Examiner has not met this burden of proof and the rejection is improper.

**In further regard to claim 1, Appellants have argued that the rejection of claim 1 is improper because the art relied upon by the Examiner fails to teach or suggest a *peer-to-peer network system, comprising a plurality of peers and a plurality of peer services or content provided by one or more of said peers*. In the Appeal Brief, Appellants specifically argued that Teodosiu does not teach or suggest peer services provided by one or more peers. In the Response to Arguments section of the Examiner's Answer, the Examiner simply responds that "the invention claims in claim 1 is presented in an alternative form, "services or content", therefore the prior art are not required to have both services and content."**

**In further regard to claim 1, Appellants have argued that the rejection of claim 1 is improper because the art relied upon by the Examiner fails to teach or suggest a *peer-to-peer network system, comprising a service or content advertisement for each of said services or content*. In the Response to Arguments section of the Examiner's Answer, the Examiner asserts "Teodosiu clearly teaches service or content advertisement (see pg. 4, par. 0045-0046, the resource ID....)." The Examiner appears to be equating Teodosiu's "resource identifier" with a service or content advertisement. In paragraph [0101], Teodosiu describes resource identifiers:**

In order to account for multiple updates to a resource that maintains the same resource address, resource identifiers are used. A resource identifier for a given resource contains the resource address, as well as a resource version number. In one embodiment, resource identifiers are generated by platform 370, as follows: the resource address is generated as a combination of the realm under which the peer 140 has been registered, the peer's identifier, and the relative file system path of the published resource in the peer's publication directory 380; the resource version number is based on the last creation or modification time of that resource, as determined by peer-to-peer platform 370 by examining its publication directory 380.

Claim 1 of the instant application recites that each service or content advertisement comprises an identification of a corresponding service or content **and an indication of how to access the corresponding service or content**. A review of the

Teodosiu reference indicates that the resource identifier is used for what its name implies - to identify a resource, and specifically (as stated in the above citation) to “account for multiple updates to a resource that maintains the same resource address”. **Nowhere does Teodosiu teach or suggest that the resource identifiers include anything like an indication of how to access the corresponding service or content, nor does Teodosiu teach or suggest that the resource identifiers are used by the client to access the corresponding resource.** In paragraph [0046], Teodosiu describes “resource records” stored on a Resource Naming Service (RNS) server that comprise “unique identifiers for resources [assumed to be the resource identifiers] and master publishers as well as one or more locations where the resources are expected to be located.” **Teodosiu clearly distinguishes between resource identifiers and the locations of the resources.** The RNS server receives a request for a resource from a peer, attempts to determine a location or locations for the resource and, if a location or locations are found, returns the location(s) to the requesting peer, which then is responsible for accessing the resource at (one of the) returned location(s). (Teodosiu, FIG. 1; paragraphs [0036] and [0037]). If, upon servicing a resource request from a client, the RNS server locates a resource record corresponding to the request, the RNS server returns a “resource status and a set of locations” (paragraph [0047], second sentence). It is clear that the “set of locations” are provided to the requesting client, and the client is then responsible for accessing the resource at one of the returned locations.

**In further regard to claim 1, Appellants have argued that the rejection of claim 1 is improper because the art relied upon by the Examiner fails to teach or suggest a peer-to-peer network system, comprising a service or content advertisement for each of said services or content, wherein each service or content advertisement comprises ...an indication of how to access the corresponding service or content.** In the Response to Arguments section of the Examiner’s Answer, the Examiner asserts “‘how to access content’ is a very broad limitation and can be read on a lot of things, one of the example of ‘how to access content’ can be given the location of the resource, or given the identifier for the resource...”. Appellants note that claim 1 of the instant application recites that each service or content advertisement comprises an identification



of a corresponding service or content **and an indication of how to access the corresponding service or content**. Thus, claim 1 clearly distinguishes between the identification of a “resource” and how to access the “resource”. Further, Appellants strongly disagree that the identification of a resource is sufficient as an indication of how to access the corresponding resource. In addition, Appellants strongly disagree that the location of a resource is sufficient as an indication of how to access the corresponding service or content. Contrary to the Examiner’s assertion, neither a resource identifier nor the location of a corresponding resource is sufficient as an indication of how to access the corresponding service or content. A resource identifier identifies a resource; a location indicates where the resource is located. Neither are sufficient to indicate how to access the resource.

Note that the Teodosiu reference, in paragraph [0037], states that “It is up to the peer 140 to take the second step to actually access the resource at the provided location(s).” Beyond that, Teodosiu is silent on how to “actually access” the resource. The cited references alone or in combination do not teach or suggest how the peer is to access the resource, and do not teach or suggest that an indication of how to access a resource is included in anything like a content or service advertisement as is recited in claim 1 of the instant application.

In the Response to Arguments section of the Examiner’s Answer, the Examiner further asserts that “throughout the applicant’s specification, applicant does not specifically disclose in detail the step of ‘how to access content’”. Appellants assert that the specification does provide description of ‘how to access [services or] content.’ For example, page 61, lines 12-24, disclose that an advertisement may include information that describes how to access a particular service implementation. A peer may access a desired service implementation using the information from the advertisement corresponding to the service implementation. Services may be implemented on a variety of computing platforms. These service implementations may include, but may not be limited to, a Java implementation and a native code implementation. As another example, page 58, lines 8-18 describe an exemplary service advertisement, and states that

“Service advertisements preferably describe how to activate and/or use the service. In one embodiment, a peer-to-peer platform-enabled service is a service that uses pipes as primary invocation mechanism. To invoke the service, a peer may [send] a message to the associated service pipe.” As yet another example, page 53, line 20-page 55, line 5 describe an exemplary content advertisement, and includes at least some details on how to access an associated content. Appellants further note that the instant application incorporates several provisional applications in their entirety, said provisional applications including more detail on “how to access services and content”.

**In further regard to claim 1, Appellants have argued that the rejection of claim 1 is improper because the art relied upon by the Examiner fails to teach or suggest a peer-to-peer network system, comprising a peer advertisement for each of said peers, wherein each peer advertisement comprises an identification of and communication address for a corresponding one of said peers.** In the Final Action, the Examiner stated that “Teodosiu did not expressly disclose a peer advertisement for each of said peers, wherein each peer advertisement comprises an identification of and communication address for a corresponding one of said peers.” The Examiner goes on to state that “Borella taught a peer advertisement for each of said peers, wherein each peer advertisement comprises an identification of and communication address for a corresponding one of said peers. (see Borella col. 6, lines 34-60).”

In the Appeal Brief, the Appellants argued that Borella teaches that a network device, such as Borella’s edge router 16 may insert a special peer discovery marker in the header of an otherwise normal network message. Another network device, such as Borella’s edge router 20 retrieves the marker from the network message before sending the network message on to its destination. The information in Borella’s peer discovery marker including address information for the network device that inserted the discovery marker in the network message. The receiving network device may then open a separate communication with the sending network device in order to send its own address information. Thus, the two network devices can communicate separately, such as to enable the two devices to “exchange and negotiate ‘intelligent’ edge router capabilities

such as error correction, encryption, compression and other transmission parameters” (Borella, column 7, line 36-column 8, line 12 and column 10, lines 25-33).

Appellants noted that the “peer discovery marker” as disclosed by Borella includes a “network address-field”, but nowhere does Borella teach or suggest that the “peer discovery marker” includes an *identification of...a corresponding one of said peers*. Further, nowhere does Borella teach or suggest that the “peer discovery markers” are peer advertisements. Borella simply describes “peer discovery markers” that can be inserted in network messages, and that indicate a network address for a sending peer (network device) that wishes to be discovered. Further, nowhere does Borella teach or suggest the notion of a *peer advertisement for each of said peers*. Borella does not teach or suggest that there is a peer discovery marker for each peer or network device. Indeed, Borella appears to teach against this notion, such as when Borella states that a peer discovery marker includes a network address of a network device that wishes to be discovered (col. 6, lines 45-48).

In the Response to Arguments section of the Examiner’s Answer, the Examiner asserts “Teodosiu discloses unique identifier for a given peer is used to identify resources...(see Teodosiu pg. 2-3, par 0031). Borella discloses the network address for the device in the peer network (see Borella col. 7, lines 52-67). Appellants fail to see how these citations add anything to the Examiner’s prior arguments, or how these citations traverse anything in the Appellants’ arguments in response as repeated above.

**Furthermore, the portions of Teodosiu cited by the Examiner are not found in either of Teodosiu’s provisional applications, and thus cannot be relied upon as prior art to reject Appellants’ claim.**

**Claims 2 and 58:**

**In regard to claim 2, Appellants have argued that the rejection of claim 2 is improper because the art relied upon by the Examiner fails to teach or suggest**

*wherein each peer advertisement is a programming language independent metadata document providing information about one of said peers.* In the Response to Arguments section of the Examiner's Answer, the Examiner asserts that "Teodosiu discloses 'website, web server services...'. Obviously, some kind of hyper mark up language such as HTML or XML is being used. Using HTML or XML is well known in the art for presenting information or content over [a] website." The Examiner's argument is irrelevant, as the **peer advertisements** recited in claim 2 are not analogous to "websites". Claim 2 does not recite any limitation having to do with 'website, web server services...' or with "presenting information or content over [a] website". Further, as Appellants noted in arguments in the Appeal Brief, the cited art **does not teach or suggest wherein each peer advertisement is a programming language independent metadata document**. Teodosiu reference **does not teach or suggest** that resource records are programming language independent metadata documents. The Borella reference **does not teach or suggest** "advertisements" as programming language independent metadata documents.

**Claims 3, 51, and 59:**

In the Response to Arguments section of the Examiner's Answer, the Examiner did not respond to the Appellants' arguments in regard to claim 3 presented in the Appeal Brief.

**Claims 4 and 60:**

In the Response to Arguments section of the Examiner's Answer, the Examiner did not respond to the Appellants' arguments in regard to claim 4 presented in the Appeal Brief.

**Claims 5, 52 and 61:**

Appellants note that the Examiner has withdrawn the rejection of Claim 5.

**Claims 8, 54, and 64:**

In regard to claim 8, Appellants have argued that the rejection of claim 8 is improper because the art relied upon by the Examiner fails to teach or suggest *wherein said plurality of peer services or content comprises a plurality of peer services, and wherein each corresponding service advertisement comprises a pipe advertisement, wherein said pipe advertisement specifies a communication channel on which to send one or more messages to invoke the corresponding service.* In the Appeal Brief, the Appellants argued that Borella simply discloses that, once the edge routers have discovered each other [via the “Peer Network Device Discovery” as disclosed by Borella], they can establish a two-way peer-to-peer “data flow” between themselves. Clearly, nowhere in the cited selection or elsewhere does Borella teach or suggest **anything like a pipe advertisement that specifies a communication channel on which to send one or more messages to invoke [a] corresponding service.** The cited selection does not teach or suggest any sort of “advertisement” for the “two-way peer-to-peer data flow”. Appellants further note that nowhere in the cited selection or elsewhere does Borella teach or suggest a *communication channel on which to send one or more messages to invoke a service* (the cited selection from Borella simply describes a “two-way peer-to-peer data flow” or channel between edge routers). Since Teodosiu-Borella do not teach or suggest either service advertisements or pipe advertisements, the references clearly cannot teach or suggest a *service advertisement comprising a pipe advertisement.*

In the Response to Arguments section of the Examiner’s Answer, the Examiner asserts “Borella discloses two devices communicate using peer discovery protocol, channel (i.e. data flow) between two devices are existed (see Borella col. 7, lines 37-51). Contrary to the Examiner’s assertion, the cited selection from Borella does not disclose that “two devices communicate using peer discovery protocol.” Instead, the cited selection states that “**Peer discovery is accomplished** using peer discover protocol 44.” In any case, the Examiner’s assertion that “channel (i.e. data flow) between two devices

are existed” is irrelevant, as the existence of “channel (i.e. data flow)” between two devices is not in question. Appellants repeat that nowhere in the cited selection or elsewhere does Borella teach or suggest **anything like a pipe advertisement that specifies a communication channel on which to send one or more messages to invoke [a] corresponding service**. The cited selection does not teach or suggest any sort of “advertisement” for the “two-way peer-to-peer data flow”.

**Claims 14-17, 55, 70-73 and 106-108:**

**In regard to claim 14, Appellants have argued that the rejection of claim 14 is improper because the art relied upon by the Examiner fails to teach or suggest *wherein said plurality of peer services or content comprises a first service and a plurality of different implementations of said first service for different platform types*.** In the Appeal Brief, Appellants argued that Teodosiu discloses client devices outside a realm, and mechanisms including “gate servers” for the client devices to access resources within the realm. However, Appellants can find nothing in the cited references that teaches or suggests anything like a first service and a plurality of different implementations of said first service for different platform types.

In the Response to Arguments section of the Examiner’s Answer, the Examiner asserts “Teodosiu discloses peer nodes can be different types of devices, resources can also be variety types such as files...devices attached to a peer, web services...application instances (see Teodosiu, pg. 9, par 0122).” Appellants fail to see how that citation teaches or suggests the notion of *wherein said plurality of peer services or content comprises a first service and a plurality of different implementations of said first service for different platform types* as is recited in claim 14.

**Furthermore, the portions of Teodosiu cited by the Examiner are not found in either of Teodosiu’s provisional applications, and thus cannot be relied upon as prior art to reject Appellants’ claim.**

**Claims 19, 20 and 75:**

In regard to claim 19, Appellants have argued that the rejection of claim 19 is improper because the art relied upon by the Examiner fails to teach or suggest *wherein one or more of said service or content advertisements comprises a time-to-live indicator, wherein the corresponding advertisement is deleted or invalidated when the time-to-live indicator expires*. In the Appeal Brief, Appellants argued that, in Teodosiu, page 3, paragraph [0040], Teodosiu simply states that, (usually), only a master publisher has the authority to delete a resource. The cited paragraph is not even referring to advertisements (or to Teodosiu's "resource records"), but instead is referring to resources. Appellants note that nothing in the above paragraph teaches or suggests anything like a time-to-live indicator, or that anything like a time-to-live indicator is included in anything like an advertisement of any type, or that "resource records" include time-to-live indicators that are used to delete or invalidate resource records. Nor can Appellants find anywhere else in the references that teaches or suggests anything like a time-to-live indicator as disclosed in claim 19 of the present application.

In the Response to Arguments section of the Examiner's Answer, the Examiner asserts "time to live in light of applicant's specification refers to expiration indication, Teodosiu teaches discard the obsolete version, this version is based on the date and time (see Teodosiu pg. 8, par. 0101-0102, 0104), which is some kind of time indicator, this time indicator is equivalent to the time to live indicator in applicant's claim." In paragraph [0102], Teodosiu simply discloses that "[e]ach time a master publisher creates or modifies a resource, the master publisher generates a new resource version number based on the date and time of the latest creation or modification of the resource." Thus, Teodosiu discloses that the resource version number is based at least in part on the date and time (of the latest creation or modification of the resource). It seems reasonable that "obsolete versions" of resources *may* be discarded. However, Teodosiu does not teach or suggest that the "date and time" that the resource version number is based on is used as any sort of "time to live indicator". Teodosiu does not teach or suggest that the corresponding resource *is* deleted or invalidated when the "date and time" expires.

Teodosiu does not even teach the notion that the “date and time” expires. Teodosiu does not teach or suggest that the “date and time” are used as a “time to live indicator”. The date and time in Teodosiu are simply used in an indicator of the version of a resource. Presumably, two such resource version number could be compared to see which of two versions of a resource is the newest version, and the “date and time” components of the resource version numbers may be used in such a comparison, but this has nothing to do with a “time to live indicator”. If a “master publisher” never modifies or replaces a resource with a new version, the “date and time” would presumably never expire. Teodosiu teaches no such notion, nor does Borella.

Furthermore, the cited paragraph is not even referring to advertisements (or to Teodosiu’s “resource records”), but instead is referring to resources.

**Furthermore, the portions of Teodosiu cited by the Examiner are not found in either of Teodosiu’s provisional applications, and thus cannot be relied upon as prior art to reject Appellants’ claim.**

**Claims 21-24 and 76-78:**

**In regard to claim 21, Appellants have argued that the rejection of claim 21 is improper because the art relied upon by the Examiner fails to teach or suggest *wherein one or more of said peer advertisements comprises a security credential for authenticating the corresponding peer*. In the Response to Arguments section of the Examiner’s Answer, the Examiner simply reasserts “Teodosiu discloses encryption keys for secure communications among peer nodes (see Teodosiu pg. 3, 0032). In the Appeal Brief, Appellants argued that, in Teodosiu, page 3, paragraph [0032], Teodosiu simply states that the process of obtaining and registering an identity with registrar 110 may include interactions between a peer 140 and registrar 110, one of which may convey encryption keys for secure communications among elements within realm 150. Nowhere does the cited paragraph teach or suggest *peer advertisements comprising a security credential for authenticating the corresponding peer*. The cited paragraph is not even**



referring to advertisements (or to Teodosiu's "resource records"). Nor can Appellants find anywhere else in the references that teaches or suggests anything like including security credentials in advertisements as disclosed in claim 21 of the present application.

**Furthermore, the portions of Teodosiu cited by the Examiner are not found in either of Teodosiu's provisional applications, and thus cannot be relied upon as prior art to reject Appellants' claim.**

**Claims 6, 7, 53, 62, 63 and 101:**

Appellants note that the Examiner has withdrawn the rejection of Claim 6.

**Claims 25, 32, and 37:**

**In regard to claim 25, Appellants have argued that the rejection of claim 25 is improper because, in the Final Action, the Examiner rejected claims 25-38 under 35 U.S.C. § 103(a) based on the same rationale as claims 1-24. However, independent claim 25 includes limitations not found in independent claim 1. Therefore, the Examiner failed to provide a proper *prima facie* rejection of claim 25.** For example, claim 25 discloses *a peer node, comprising a processor, a port... and a memory operable to store program instructions, wherein the program instructions are executable by the processor to discover advertisements for resources in a peer-to-peer network, wherein each resource advertisement comprises an identification of a corresponding resource and an indication of how to access the corresponding resource.*

In the Response to Arguments section of the Examiner's Answer, the Examiner asserts "even though the wording of the claims are slightly different, but in light of the specification, the functionality of claims 1 and 25 are the same, not different, therefore the rejection of claim 1 equally applied to claim 25." Appellants note that the wording of claims 1 and 25 are certainly more than "slightly different", and that the functionality of the two claims is clearly not "the same". For example, claim 25 is directed at a *peer*

*node, comprising a processor, a port...and a memory operable to store program instructions...executable by the processor to: discover advertisements for resources in a peer-to-peer network... and access said resources corresponding to said advertisements, while claim 1 is directed at [a] peer-to-peer network system comprising a plurality of peers, a peer advertisement for each of said peers, a plurality of peer services or content provided by one or more of said peers, and a service or content advertisement for each of said services or content. Clearly, claim 25 includes limitations not found in claim 1 (e.g., **program instructions...executable by the processor to: discover advertisements for resources in a peer-to-peer network**), the wording is distinctly different, and the functionality of the two claims is not “the same.”*

In the Response to Arguments section of the Examiner’s Answer, the Examiner further asserts “Teodosiu further discloses the resource ID, and the location of the resource (see Teodosiu, pg. 4, par 0045-0046), the resource ID and the location of the resource is equivalent to ‘discover advertisement for the resource’. This limitation is similar to the ‘service or content advertisement’ of claim 1.”

Teodosiu in view of Borella does not teach or suggest a peer node comprising program instructions executable to discover advertisements for resources in a peer-to-peer network. In paragraph [0045], Teodosiu simply discloses that a RNS server 130 receives from a peer 140 a resource request for the location of a particular resource. Teodosiu simply discloses that a peer sends a resource request to an RNS server for the location of a particular resource. If the RNS server finds a matching resource record, the RNS server returns the resource status and a set of locations for the resource. Teodosiu thus teaches that a peer “discovers” locations of resources through requests to the RNS server. Teodosiu clearly does not teach or suggest that a peer “discovers” “resource advertisements”, or that the RNS server returns “advertisements” to the peer. Only the RNS server as disclosed by Teodosiu is aware of the resource records.

Furthermore, Appellants fail to see how the limitation *program instructions executable to discover advertisements for resources in a peer-to-peer network* recited in

claim 25 is “similar to” the limitation *a service or content advertisement for each of said services or content* recited in claim 1.

**Furthermore, the portions of Teodosiu cited by the Examiner are not found in either of Teodosiu’s provisional applications, and thus cannot be relied upon as prior art to reject Appellants’ claim.**

**Claim 26:**

In the Response to Arguments section of the Examiner’s Answer, the Examiner did not respond to the Appellants’ arguments in regard to claim 26 presented in the Appeal Brief.

**Claim 27:**

In the Response to Arguments section of the Examiner’s Answer, the Examiner did not respond to the Appellants’ arguments in regard to claim 27 presented in the Appeal Brief.

**Claim 28:**

In the Response to Arguments section of the Examiner’s Answer, the Examiner did not respond to the Appellants’ arguments in regard to claim 28 presented in the Appeal Brief.

**Claims 29-31:**

In the Response to Arguments section of the Examiner’s Answer, the Examiner did not respond to the Appellants’ arguments in regard to claim 29 presented in the Appeal Brief.

**Claims 33-36:**

In the Response to Arguments section of the Examiner's Answer, the Examiner did not respond to the Appellants' arguments in regard to claim 33 presented in the Appeal Brief.

**Claim 38:**

In the Response to Arguments section of the Examiner's Answer, the Examiner did not respond to the Appellants' arguments in regard to claim 38 presented in the Appeal Brief.

**Claims 39 and 40:**

**In regard to claim 39, Appellants have argued that the rejection of claim 39 is improper because, in the Final Action, the Examiner rejected claims 39 and 40 under 35 U.S.C. § 103(a) based on the same rationale as claims 1-24. However, independent claim 39 includes limitations not found in independent claim 1. Therefore, the Examiner failed to provide a proper *prima facie* rejection of claim 39.** For example, claim 39 discloses *a peer node, comprising a processor, a port operable to couple the peer node to a network, and a memory operable to store program instructions, wherein the program instructions are executable by the processor to generate a peer advertisement for the peer node, wherein said peer advertisement for the peer node comprises a pipe endpoint advertisement indicating where to send messages to the peer node and one or more service advertisements, wherein each service advertisement corresponds to one of the one or more services instantiated on the peer node, and wherein each service advertisement indicates a mechanism for other peer nodes on the network to access the corresponding service.*

In the Response to Arguments section of the Examiner's Answer, the Examiner asserts "even though the wording of the claims are slightly different, but in light of the

specification, the functionality of claims 1 and 39 are the same, not different, therefore the rejection of claim 1 equally applied to claim 39.” Appellants note that the wording of claims 1 and 39 are certainly more than “slightly different”, and that the functionality of the two claims is clearly not “the same”. For example, claim 39 is directed at a *peer node, comprising a processor, a port...and a memory operable to store program instructions...executable by the processor to: generate a peer advertisement for the peer node, wherein said peer advertisement for the peer node comprises a pipe endpoint advertisement indicating where to send messages to the peer node and one or more service advertisements*, while claim 1 is directed at *[a] peer-to-peer network system comprising a plurality of peers, a peer advertisement for each of said peers, a plurality of peer services or content provided by one or more of said peers, and a service or content advertisement for each of said services or content*. Clearly, claim 39 includes limitations not found in claim 1 (e.g., *program instructions...executable by the processor to: generate a peer advertisement for the peer node*), the wording is distinctly different, and the functionality of the two claims is not “the same.”

In the Response to Arguments section of the Examiner’s Answer, the Examiner further asserts “Borella further discloses the communication address of the peer, when one peer end message to the other peer, the communication address included in the message, this is equivalent to the pipe endpoint advertisement, the communication address for peer is also included in claim 1.” Borella discloses a “peer discovery marker” that includes address information for the network device that inserted the discovery marker in the network message. In col. 6, lines 34–60, Borella discloses “components of a peer discovery protocol 44” that include a “peer discovery marker 46. Peer discovery marker includes a kind-field 48, a length-field 50 and a network address-field 52.” However, nowhere does Borella teach or suggest that the “peer discovery marker” includes a “pipe endpoint advertisement.” Including a communication address in a message is not equivalent to the notion of a pipe endpoint advertisement as recited in claim 39. Further, the peer discovery marker disclosed by Borella is clearly not equivalent to the peer advertisement as recited in claim 39.

In the Response to Arguments section of the Examiner's Answer, the Examiner further asserts "Teodosiu further teach the ID for the resource (see Teodosiu pg 4, par 0045-0046), the resource may includes files...services ...(see Teodosiu pg. 9, par 0122), therefore Teodosiu teaches the service advertisement." Appellants refer to the traversal of this assertion in the arguments related to claim 1.

**Furthermore, the portions of Teodosiu cited by the Examiner are not found in either of Teodosiu's provisional applications, and thus cannot be relied upon as prior art to reject Appellants' claim.**

**Claims 41-49:**

In the Response to Arguments section of the Examiner's Answer, the Examiner did not respond to the Appellants' arguments in regard to claim 41 presented in the Appeal Brief.

**Claim 79-81, 83- 86 and 110:**

**In regard to claim 79, Appellants have argued that the rejection of claim 79 is improper because, in the Final Action, the Examiner rejected claims 79-93 under 35 U.S.C. § 103(a) based on the same rationale as claims 1-24. However, independent claim 79 includes limitations not found in claims 1-24. Therefore, the Examiner failed to provide a proper *prima facie* rejection of claim 79. For example, claim 79 discloses a method for discovering resources in a peer-to-peer network, the method comprising a peer node broadcasting a discovery query message specifying a type of resource on the network.**

In the Response to Arguments section of the Examiner's Answer, the Examiner asserts "the limitations of claim 79 is similar to the limitations of claims 1 and 2, the wording of claim 79 may be slightly different, but in light of the specification, the

functionality of claim 79 compares to claims 1 and 2 are the same, not different, therefore the rejection of claim 1-2 equally applied to claim 79.” Appellants note that the wording of claims 1 and 79 are certainly more than “slightly different”, and that the functionality of the two claims is clearly not “the same”. For example, claim 79 is directed at *a method for discovering resources in a peer-to-peer network, the method comprising a peer node **broadcasting a discovery query message** specifying a type of resource on the network; and the peer node **receiving one or more advertisements** for the specified type of resource in response to said discovery query message*, while claim 1 is directed at *[a] **peer-to-peer network system** comprising a plurality of peers, a peer advertisement for each of said peers, a plurality of peer services or content provided by one or more of said peers, and a service or content advertisement for each of said services or content*. Clearly, claim 79 includes limitations not found in claims 1 and 2 (e.g., **broadcasting a discovery query message** and **receiving one or more advertisements**), the wording is distinctly different, and the functionality of the two claims is not “the same.”

**Claim 82:**

Appellants note that the Examiner has withdrawn the rejection of Claim 82.

**Claim 87:**

In regard to claim 87, Appellants have argued that the rejection of claim 87 is improper because, in the Final Action, the Examiner rejected claim 87 under 35 U.S.C. § 103(a) based on the same rationale as claims 1-24. However, claim 87, which depends from claim 79, includes limitations not found in any of claims 1-24. Therefore, the Examiner failed to provide a proper *prima facie* rejection of claim 87. For example, claim 87 discloses *wherein the **resource type** specifies one of a peer node, a peer group, a pipe, a pipe endpoint, content, or a service*. Appellants can find nothing in Teodosiu-Borella-Rochberger that teaches or suggests anything like resources [in a peer-to-peer network] that include *one or more of peer nodes, peer groups, pipes, pipe endpoints, content, and services*.

In the Response to Arguments section of the Examiner's Answer, the Examiner asserts "even though the wording of the claims are slightly different, but in light of the specification, the functionality of claim 87 is similar to limitations of claims 1-24. The claim language express in such a way that resource specifies one of the item from the given list (a peer node, a peer group, a pipe, a pipe endpoint, content, or a service), therefore the claim can be read "the resource specifies content", Teodosiu teaches the resource may include files...services (see Teodosiu pg 9, par 0122)." Appellants note that nowhere in claims 1-24 can be found the limitation *program instructions...executable to broadcast to other peer nodes a discovery query message specifying a type of resource* as is recited in claim 79, from which claim 87 depends. Further, claim 87 recites that a **resource type** specifies one of a peer node, a peer group, a pipe, a pipe endpoint, content, or a service, not "the **resource** specifies content" as the Examiner asserts. Nowhere in claims 1-24 can be found the limitation of a **resource type** that specifies *one of a peer node, a peer group, a pipe, a pipe endpoint, content, or a service*.

Appellants note that the wording of claims 1-24 and claim 87, which depends from claim 79, are certainly more than "slightly different", and that the functionality of the claims is clearly not "the same". Clearly, claim 87 includes limitations not found in claims 1-24 (e.g., *program instructions...executable to broadcast to other peer nodes a discovery query message specifying a type of resource, wherein the resource type specifies one of a peer node, a peer group, a pipe, a pipe endpoint, content, or a service*), the wording is distinctly different, and the functionality of the claims is clearly not "the same."

**Furthermore, the portions of Teodosiu cited by the Examiner are not found in either of Teodosiu's provisional applications, and thus cannot be relied upon as prior art to reject Appellants' claim.**

**Claims 88- 92:**



In the Response to Arguments section of the Examiner's Answer, the Examiner did not respond to the Appellants' arguments in regard to claim 88 presented in the Appeal Brief.

**Claim 93:**

In the Response to Arguments section of the Examiner's Answer, the Examiner did not respond to the Appellants' arguments in regard to claim 93 presented in the Appeal Brief.

**Claims 94, 96, 98, 99, and 111:**

In regard to claim 94, Appellants have argued that the rejection of claim 94 is improper because, in the Final Action, the Examiner rejected claims 94-99 under 35 U.S.C. § 103(a) based on the same rationale as claims 1-24. However, independent claim 94 includes limitations not found in claims 1-24. Therefore, the Examiner failed to provide a proper *prima facie* rejection of claim 94. For example, claim 94 discloses a method, comprising *a peer node on a network instantiating one or more services, the peer node generating a peer advertisement in accordance with a peer-to-peer platform discovery protocol, and the peer node publishing the peer advertisement in the peer-to-peer network for discovery by other peer nodes on the network, wherein the peer advertisement is a programming language independent metadata document formatted in accordance with the peer-to-peer platform discovery protocol.* Teodosi-Borella does not teach or suggest *wherein the peer advertisement is a programming language independent metadata document formatted in accordance with the peer-to-peer platform discovery protocol.*

In the Response to Arguments section of the Examiner's Answer, the Examiner asserts "the limitations of claim 94 is similar to the limitations of claims [1-24], the wording of claim [94] may be slightly different, but in light of the specification, the

functionality of claim 94 compares to claims [1-24] are the same, not different, therefore the rejection of claim [1-24] equally applied to claim 94.” Appellants note that the wording of claims 1-24 and claim 94 are certainly more than “slightly different”, and that the functionality of the claims is clearly not “the same”. For example, claim 94 is directed at *a method, comprising: a peer node on a network instantiating one or more services; the peer node generating a peer advertisement in accordance with a peer-to-peer platform discovery protocol; and the peer node publishing the peer advertisement in the peer-to-peer network for discovery by other peer nodes on the network*, while claim 1 is directed at *[a] peer-to-peer network system comprising a plurality of peers, a peer advertisement for each of said peers, a plurality of peer services or content provided by one or more of said peers, and a service or content advertisement for each of said services or content*. Clearly, claim 94 includes a combination of limitations not found in claims 1-24, the wording is distinctly different, and the functionality of the claims is not “the same.”

**Claim 95:**

In the Response to Arguments section of the Examiner’s Answer, the Examiner did not respond to the Appellants’ arguments in regard to claim 95 presented in the Appeal Brief.

**Claim 97:**

In the Response to Arguments section of the Examiner’s Answer, the Examiner did not respond to the Appellants’ arguments in regard to claim 97 presented in the Appeal Brief.

## CONCLUSION

For the foregoing reasons submitted in the Appeal Brief and this Reply Brief, it is submitted that the Examiner's rejections of the claims is erroneous, and reversal of his decision is respectfully requested.

The Commissioner is authorized to charge any fees that may be due to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-05700/RCK. This Reply Brief is submitted with a return receipt postcard.

Respectfully submitted,

/Robert C. Kowert/

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